GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Dispute:—Industrial Dispute between the workmen and the management of New Taj Mahal Cafe (P) Ltd., Mangalore.

Award of the Labour Court, Mangalore—Published

Read the following papers:

(1) Letter No. A/ID. 19/72-73, dated 23rd September 1972 from Sri B. Hanumanthaiah, Presiding Officer, Labour Court, Mangalore.

BEFORE THE LABOUR COURT AT MANGALORE

Dated 22nd September 1972.

Reference

(ID) (LCM) No. 19 of 1963 (96 of 1966)

Present

B. Hanumanthaiah, B. sc., . LLB., *Presiding Officer*

Between:—

The Workmen represented by the Secretary, Vanijya Shramika Sangh, Felix Pai, Bazaar, Mangalore-1.

I Party.

and

The Management of New Taj Mahal Cafe (P) Ltd., Mangalore

II Party.

AWARD

The Government of Mysore being of opinion that an industrial dispute exists between the workmen and the management of New Taj Mahal Cafe (P) Ltd., Mangalore, referred it under Sec. 10 (1) (c) of the Industrial Disputes Act, 1947 *vide* Order No. LMA 315 LLD 65, dated 3rd August 1966 to the Labour Court at Bangalore for adjudication setting out the following points of dispute:

"Are the management of New Taj Mahal Cafe (P) Ltd. Mangalore, justified in:—

(a) terminating the services of the following workers:—

(1) Krishna Shetty	Worker No. 1285;
(2) Kannan Nambiar	Worker No. 1471;
(3) Sadananda Rao	Worker No 1281;
(4) Lingappa Naik	Worker No. 1412

If not, to what reliefs are the workers entitled?"

2. On receipt of the reference it was registered as Ref. No. 99 of 1966 on the file of the said Court. Claim statement and written statement was received by post on 10th October 1966 and 12th July 1967 respectively. Thereafter this case was transferred to this Labour Court at Mangalore in pursuance of G. O. No. FCL 375 LLE 67, dated 17th May 1968, on receipt of which on 27th May 1968 it was registered as Reference (ID) (LCM) No. 19 of 1968 on the file of this Court. The first party workman is represented by Sri P. Ghate, Vice-President, Vanijya Shramika Sangh, Mangalore The second party is represented by its learned representative Sri K. R. Putturaya.

3. In the statement filed by the I Party it is stated that the worker Sri Krishna Shetty was a grinder under the II Party. That on 17th January 1965 he was served with a show cause notice alleging that he failed to put in minimum work of grinding and thereafter he was kept under suspension. It is also stated that the management held a so called enquiry where the workman was neither allowed to adduce evidence nor cross-examine the management's witnesses, and subsequently by an order dated 13th March 1965 he was dismissed from service.

4. It is stated that Sri. Kannan Nambiar was also served with a show cause notice-*cum*-suspension order on 12th November 1964, and the management proceeded to hold an enquiry though he submitted his explanation. The request of the worker to allow him to take the assistance of a Malayalam interpretor was not granted.

5. It is stated that Sri Sadananda Rao was issued a show cause notice for alleged spoiling of food-stuffs etc., and after holding a so-called enquiry where the worker was not allowed to examine his witnesses and cross-examine the II Party's witnesses, he was discharged from services by an order dated 20th January 1965.

6. Worker Sri Lingappa Naik was refused work when reported for duty on 23rd April 1965 and subsequently he received a show cause notice-*cum*-suspension order alleging that he beat a co-worker. He only received a notice from the Industrial Tribunal, Bangalore calling for his objections to the petition filed by the II Party seeking approval dismissing the workman, but no notice of enquiry was received by him nor even the final order passed against him was received.

7. It is therefore prayed that the orders passed by the management may be set aside and direction may be issued to reinstate them.

8. The second party in its counter statement stated that the workers have committed acts of misconduct and the management after giving the show cause notice, an enquiry was held and every opportunity was afforded to them to defend themselves. The management also filed applications under Section 33 (2) (b) of the Industrial Disputes Act, before the Industrial Tribunal, Bangalore before whom a dispute was pending, and the Tribunal has accorded its approval to the action taken by the management. It is denied that the action of the management is *mala fide* or taken to victimise the worker.

9. The second party also contended that the second party establishement is not an industry and the dispute is not an industrial dispute and therefore this court has no jurisdiction to adjudicate upon the dispute. My learned predecessor has by his order, dated 28th June 1969 held that the business carried on by the second party is an industy and the dispute is an industrial dispute and this court is competent to adjudicate upon the dispute. The second party management filed a writ petition against the order passed by this Court on 28th June 1969, in writ petition No. 5088/1969. The Honourable High Court has dismissed the writ petition filed by the second party management. After the dismissal of the writ petition, the case was posted for evidence to 17th February 1972. The case was being adjourned from time to time since both the parties represented before Court that they were negotiating for settlement. On 16th September 1972 the case was finally posted to 18th September 1972 for evidence. On 18th September 1972 both the parties filed a Joint Memo praying that an Award may be passed in terms of the settlement entered into between the parties.

10. Under the terms of the Joint Memo, the second party has agreed to pay a sum of Rs. 400/- (Rupees four hundred only) to Sri. Sadananca Rao, in full and final settlement of all his claims in this dispute including the claim for reinstatement. The first party workman *i. e.*, Sri. Sadanada Rao, has agreed to accept the amount in full and final settlement of all his claims. It is also agreed that the second party will pay the amount on or before 25th September 1972. The claim of others is not pressed. The first party workmen are represented by their learned representative Sri. P. Ghate who is also the Vice President of Vanijya Shramika Sangh. There are no reasons to find that the settlement has been reached between the parties under any coercion or threat. Having regard to the fact that the first party workmen are represented by the Vice President of Vanijya Shramika Sangh, I find that the settlement has been reached between the parties out of their own free will and it is fair and equitable. Therefore, I accept the settlement as recorded in the Joint Memo filed by the parties and make the following Award :

The Award is passed in terms of the Joint Memo of settlemnet which shall form part of this Award. The parties shall bear their own cost.

Mangalore.

Dated 22nd September 1972.

B. HANUMANTHAIAH
Presiding Officer,
Labour Court, Mangalore.

APPENDIX.

BEFORE THE LABOUR COURT AT MANGALORE.

(ID) (LCM) No. 19 of 1968.

Between :

Workmen of New Tajmahal Cafe (P) Ltd., Mangalore.

.... *I Party.*

and

The Management of New Tajmahal Cafe (P) Ltd., Mangalore

.... *II Party*

Joint Memo of Settlement

Both parties submit that the dispute has been settled amicably between the parties on the following terms.—

Terms of Settlement

1. The II Party agrees to pay Rs. 400/- (Rupees four hundred) only to Sri Sadananda Rao, in full and final settlement of all his claims in this dispute including the claim for reinstatement.

2. The I Party does not press the claims of Sri, Krishna Shetty, Sri Lingappa Naik and Sri Kannan Nambiar and agrees to accept the amounts of Rs.400/- to be paid to Sri Sadananda Rao in full and final settlement of all the claims of the I Party workman including the claims reinstatement of the 4 workmen named in the order of reference.

3. The amonnt agreed to be paid as per term No. 1 will be paid to Sri Sadananda Rao on or before 25th September 1972.

4. Parties pray that an Award may be passed in terms of this Joint Memo.

Prays accordingly.

Mangalore 18-9-1972 (Sd.) Prabhakar Ghate I Party. (Sd.) K. R. Putturaya II Party.

Filed in Court.

(Sd.) B. HANUMANTHAIAH,
Presiding Officer,
Labour Court, Mangalore,
18-9-1972.

"TRUE COPY"

B. HANUMANTHAIAH,
Presiding Officer,
Labour Court, Mangalore.

ORDER

Bangalore, dated 13th October 1972.

S. O. 119.—WHEREAS by State Government Order No. LMA 225 LLD 66, dated 3rd August 1966 the Industrial Dispute between the workmen and the management of New Taj Mahal Cafe (P) Ltd, Mangalore was referred to the Labour Court, Mangalore for adjudication.

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE in exercise of the powers conferred by section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. FCL 182 LLA 72.

By Order and in the name of the Governor of Mysore,

ANIBUDHA DESAI,

Under Secretary to Government,

1036 *Food, Civil Supplies and Labour Department.*